

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

BRIAN O. SHARP,)	
)	
Petitioner,)	
)	
v.)	Case No. 4:04CV956 RWS
)	
DON ROPER and)	
JEREMIAH NIXON,)	
)	
Respondent.)	

MEMORANDUM AND ORDER

This matter is before me on the petition for writ of habeas corpus filed by Petitioner Brian Sharp. I referred this matter to United States Magistrate Judge Lewis M. Blanton for a report and recommendation on all dispositive matters pursuant to 28 U.S.C. § 636(b). On August 22, 2007, Judge Blanton filed his recommendation that Sharp's habeas petition should be denied.

Objections to Judge Blanton's Report and Recommendation were due to be filed by September 3, 2007. On September 4, 2007, Sharp filed a motion for an extension of time to file his objections. On September 7, 2007, I granted Sharp's motion and set a deadline of October 4, 2007, for Sharp to file his objections. As of the date of this order, Sharp has not filed any objection to the Report and Recommendation. After careful consideration, I will adopt and sustain the thorough reasoning of Magistrate Judge Blanton's and will deny Sharp's habeas petition for the reasons stated in the Report and Recommendation dated August 22, 2007.

I have also considered whether to issue a certificate of appealability. To grant a certificate of appealability, the Court must find a substantial showing of the denial of a federal constitutional right. See Tiedeman v. Benson, 122 F.3d 518, 522 (8th Cir. 1997). A substantial

showing is a showing that issues are debatable among reasonable jurists, a Court could resolve the issues differently, or the issues deserve further proceedings. Cox v. Norris, 133 F.3d 565, 569 (8th Cir. 1997) (citing Flieger v. Delo, 16 F.3d 878, 882-83 (8th Cir. 1994)). Because petitioner has not made such a showing in this case, I will not issue a certificate of appealability. Accordingly,

IT IS HEREBY ORDERED that Judge Blanton's Report and Recommendation filed on August 22, 2007 is adopted and sustained in its entirety.

IT IS FURTHER ORDERED that Petitioner Brian Sharp's Petition for Writ of Habeas Corpus is **DENIED**.

IT IS FURTHER ORDERED that the Court will not issue a certificate of appealability.

A separate Judgment in accordance with this Memorandum and Order is entered this same date.



RODNEY W. SIPPEL
UNITED STATES DISTRICT JUDGE

Dated this 25th day of October, 2007.